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To: ALLCOUNSEL OU=CEIM-AA(DL) ON=MAIL01
From: MARTIN R COHEN OU=CECC-K ON=MAIL01
CC:
BC:

Subj: SEP's

MEMORANDUM TO ALL DIVISION AND DISTRICT COUNSEL
SUBJECT: SUPPLEMENTAL ENVIRONMENTAL PROJECTS

I am enclosing a letter signed by the Chief Counsel to the Department of Justice concerning the above subject.

It has come to my attention that in certain cases, we are being asked to enter into arrangements where violators could put money into a fund for third parties to undertake "good works" for the environment, rather than have the violator remedy his violation on site himself. Although they are not technically be "SEP's", such arrangements raise many of the same issues.

In view of the legal authority and fiscal questions concerning such arrangements, I am requesting that you contact your regulatory office and alert them to the fact that there may be legal issues involved. Moreover, in view of the precedential and controversial nature of such agreements, I am requesting that each District Counsel forward a proposed agreement through Division to this office before entering in to the agreement.

Initially, we will review the agreements, in consultation with Division and District Counsel, on a case by case basis until we develop an understanding of the extent to which this is a real issue, rather than isolated occurrences. After experience with one or two of these agreements, we should be in better shape to issue more definitive (and I hope helpful) guidance.

Encl

MARTIN R. COHEN
Assistant Chief Counsel
for Litigation